**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1455 OF 2006**

1. Mr.Thakur Lalji Beniprasad Singh,
2. Mr.Rambahal Shivshankar Singh, ...Applicants

V/s.

State of Maharashtra. ...Respondent

Shri A.P. Mundargi i/b. Shri P.L. Shetty for Applicants.
Shri Y.S. Shinde, APP for the State.

**CORAM : V.M. KANADE, J.**

**DATED : APRIL 17, 2006**

**P.C. :-**

. Heard learned Counsel for the applicants and learned APP for the State.

. This is an application for anticipatory bail filed by the applicants who have an apprehension that they are likely to be arrested in connection with a complaint which is registered with MIDC Police Station, Mumbai, for the offence punishable under Section 33B read with Section 294 read with Section 34 of the IPC.

2. It is alleged that the police had received information that the proprietor of the hotel "Night Lover Bar and Restaurant" situated at Kakad Corner,

Opp.Borosil, Andheri-Kurla Road, was performing obscene dances which was prohibited by Section 33B of the said Act. A raid was conducted and several female dancers were apprehended while they were performing the obscene dance as defined under the said Act.

3. Learned Counsel for the applicants submits that the validity of Section 33B of the Bombay Police Act was challenged in this Court and the Division Bench of this Court has struck down the validity of the said provision on the ground that it is discriminative and violative of Article 14 of the Constitution of India. He submits that so far as Section 294 is concerned, it is a bailable offence. He submits that therefore, the applicants are entitled to be granted anticipatory bail.

4. It is an admitted position that provisions of Section 33B were incorporated under the Bombay Police Act by the State of Maharashtra and thereby had banned all the activities which had obscene dance and orchestra which were conducted in the licensed hotels. The said provisions have now been struck down by the Division

Bench of this Court. Considering this position, in my view, the applicants have made out a case for grant of anticipatory bail.

5. The applicants, in the event of arrest in connection with an offence registered by the MIDC Police station for the offence punishable under Section 33B read with Section 294 read with Section 34 of the IPC, may be released on bail in the sum of Rs.10,000/- each with one or two sureties in the like amount. The applicants shall cooperate with the Investigating Officer.

6. The application is disposed of in the above terms.

7. Learned APP submits that the said order of the High Court has been challenged in the Supreme Court. In the event, if the operation of the order is stayed by the Supreme Court, liberty to apply for cancellation of bail.

**(V.M. Kanade, J.)**